UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

Distr.: GENERAL
E/ECA/CM.13/27/Summary
3 February 1987
Original: ENGLISH

ECONOMIC COMMISSION FOR AFRICA

Eighth meeting of the Technical Preparatory Committee of the Whole

Addis Ababa, Ethiopia
13 - 20 April 1987

Item 11 of the provisional agenda*

ECONOMIC COMMISSION FOR AFRICA

Twenty-second session of the Commission/ thirteenth meeting of the Conference of Ministers

Addis Ababa, Ethiopia
23 - 27 April 1987

Item 6 of the provisional agenda**

LG/NAIR08

IMPLEMENTATION IN AFRICA OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Executive Summary

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* E/ECA/TPCW.8/1.
** E/ECA/CM.13/1.

1. The United Nations Convention on the Elimination of all Forms of Discrimination Against Women was adopted by the United Nations General Assembly on 18 December 1979 and came into force on 3 September 1981. As of April 1986, the Convention was ratified by 87 States Parties, including 21 African States.

2. The Convention has been hailed as the first international legal instrument to deal with a whole spectrum of issues relating to the role and status of women. It was a result of intensive work by the United Nations Commission on the Status of Women, various working groups and the General Assembly over a period of several years. It is widely accepted as one of the most significant achievements of the United Nations Decade for Women, which ended in 1985.

3. The Convention marks an expansion and consolidation of earlier instruments relating to the rights and status of women. For the first time, the world has a comprehensive, legally binding instrument embodying the international community's commitment to the principles of equality of men and women and non-discrimination on the basis of sex. It covers education, employment, health, political life, marriage and family relations, the situation of women in rural areas and equality of men and women in and before the law.

4. By ratifying the Convention the 21 African States made an international commitment to promote the equality of women in their respective countries and to eliminate discrimination against them. While ratification or accession is a crucial step, it is not sufficient and should not be treated as an end in itself. The major factor that will actually change the situation of women in the region is the effective implementation of the provisions of the Convention.

5. A basic question that needs to be addressed is why African Governments should expend human and material resources on the roles and status of women when they have to contend with many other critical issues. The simple truth is that unless African Governments act positively and decisively to improve the situation of women in their countries, the problems of food shortage, drought, hunger, economic dependence, etc., will be permanently pressing. The two issues are inseparable, and they influence each other. No country can afford to have half of its population poor, illiterate, dependent and contributing minimally to national efforts. One of the major ways to free the great potential of women for Africa's development is to reform the laws which infringe, impinge upon or minimize their rights and responsibilities. One of the basic causes of inequality is women's inferior status under the law. Although African countries do not comprise a homogeneous entity, they are similar in the areas that need reform. These relate mainly to family law - marriage, minimum age of marriage, inheritance, acquisition and administration of property, access to education, employment, credit facilities, equal pension benefits and insurance, among others.

6. ECA conducted a study of the Convention in a number of African States in order to assess what was being done to implement it. When a country ratifies the Convention, it is obliged to give full effect to its provisions, including bringing its domestic laws in line with the international instrument. Several deficiencies immediately became clear. Although one of the obligations a State party assumes upon ratification/accession is to submit a report to the Commission on the Elimination of Discrimination Against Women (CEDAW) on the judicial, administrative or other measures which they have adopted to implement the Convention, only two of the twenty-one African States parties to the Convention (Egypt and Rwanda) have submitted the required reports. Is this because they have not taken any measures to give effect to the provisions of the Convention? It may also be because the reporting procedure requires skilled personnel to undertake research and co-ordination, and these may be unavailable. Another reason may be that there has been no follow-up since ratification. Secondly, even at the highest level, many people who had a high level of awareness of United Nations activities relating to women had little specific knowledge about the Convention; most had never seen a copy of it. It is clear that if women are to exercise their rights, they must know what they are. Wide dissemination of the Convention is mandatory for this.

7. On the basis of its comparative study, ECA was able to come to some general conclusions about the legal status of women in Africa. Despite the tremendous improvements in the situation of women in Africa during the United Nations Decade for Women, much remains to be done. The position of women in most societies is still characterized by inequalities and discrimination. Notwithstanding several laws protecting the equal rights of women, full equality and non-discrimination are yet to be achieved in practice in most spheres of life - employment, education, politics and economics. Inequality in the field of education is still the norm rather than the exception. Laws aimed at ensuring equal employment opportunities abound, yet in practice African women account for only 30 per cent of the total paid labour force and are poorly represented at managerial, technical and administrative levels. Women have the right to vote in most countries and often account for more than 50 per cent of the electorate, yet they form only 6 per cent of national legislatures. A number of countries provide for equal rights and duties as parents, yet almost all require the husband's signature for a married woman to get a passport and for the children of the family to travel with the mother.

8. Across the region there are great variations in women's legal status. There are countries where women have no legal standing (they cannot appear in court without the sanction or assistance of a husband or other male relative) and countries where a woman can not dispose of or otherwise manage property. And there are others where women have full legal and economic capacity. In some countries, the women's right to work outside the home is taken for granted, while in others she requires the written permission of her husband. In almost all countries, the domicile, residence and nationality of the family are determined only by the husband. Often, even rights guaranteed by the Constitution or other laws are abrogated by cultural practices, religious and customary laws and traditional attitudes.

9. Across the board in Africa, regardless of geographical region, language, culture or level of economic development, the Convention is most respects is not being implemented. Although the legal superstructure (embodied in their Constitutions, for example) of virtually all States in the region professes equality between the sexes, the social reality for women is quite different.

10. The study shows that most African Governments accept the ideal of equal rights for women in social economic and political spheres. However, major problems arise with regard to equal rights for women in the context of marriage and family life. A number of countries exclude personal status laws (relating to marriage, divorce, custody, inheritance, etc.) from the ambit of the non-discrimination provision of their Constitutions. This crucial omission is the basis for the gap between law and reality in many countries. Unless African Governments stop paying lip service to the principle of equality between the sexes and take real steps to ensure it becoming a reality, programmes to improve the status of women will continue to have limited success. This in fact is the major obstacle to the implementation of the Convention.

11. Across the region, a number of common problems can be identified in the implementation of the Convention:

(a) The region's economic crisis. There is no question that the continent's economic crisis is the greatest impediment for implementing of the Convention. When resources are limited, social programmes relating to women's status are among the first to be shelved;

(b) As mentioned above, lack of knowledge about the Convention. People can not work towards implementation of any convention if they are not familiar with its contents;

(c) Illiteracy among women. So long as people are illiterate, they can not participate in the implementation of the Convention;

(d) Language of the Convention. While the Convention has been translated into the six official United Nations languages, it has not been translated into any African languages. Unless this is done, dissemination can not be effective to the mass of African women;

(e) Shortage of staff who are trained in or sensitive to gender issues in ministries or departments responsible for implementation of international instruments. This being the case, international instruments relating to women's rights receive very low priority;

(f) Failure to understand what constitutes discrimination against women. This is related to lack of knowledge of the Convention's contents. Many officials who professed that there was no discrimination against women in their countries failed to perceive problems of a wife having no security in the matrimonial home, lack of equal inheritance rights, equal access to credit facilities, etc. (areas clearly covered by the Convention) as examples of discrimination;

(g) Lack of resources for organizations such as women's machineries set up to play a critical role in creating awareness among women of their rights. Given their limited resources, their chances to follow up the implementation of the Convention are limited;

(h) Theoretical acceptance of the principle of equality of the sexes without a concomitant commitment to restructure society to ensure equality for both men and women;

(i) While the link between women's issues and the development process has been acknowledged, it has not been fully appreciated; thus the marginalization of women's issues continues;

(j) Women's groups have not sufficiently pressurized governments to implement the Convention. Many governments feel that the appointment of one or two women to senior positions is a sufficient sign that they are fulfilling their obligations;

(k) Lack of confidence among women themselves. This is more pronounced in some places than in others. Hence women's groups activities are tempered in exercising or demanding their rights by fear of antagonizing men. Some end up being too cautious to be effective;

(l) The Convention as well as the subject of women's rights in general have not been presented in an African framework, in a way that encourages people to get involved. Negative attitudes linger towards what is regarded as a western-inspired "women's liberation movement". Thus an effort has to be made to show that the Convention is Africa is to be used to solve African problems, and that it is not a foreign construct.

12. A number of recommendations have been made to governments, international, regional and non-governmental organizations and individuals to enable make effective implementation of the Convention in the region. Governments need to set up bodies to change outdated laws, give wide publicity to procedures for women's redress of grievances regarding their rights, devote greater resources to national machineries for women, reserve seats in Parliament for women, where such exist, develop curricula on the roles and status of women for use in both formal and informal education, mount campaigns to eliminate illiteracy, establish focal points on gender issues in all ministries, translate into local languages and widely distribute the Convention, and include it in the general curriculum of secondary schools. Women should be included in government delegations to regional and international meetings.

13. It is recommended that international and regional organizations produce a document linking the Lagos Plan of Action, Africa's Priority Programme for Economic Recovery with the Arusha and Nairobi Strategies for the Advancement of Women as well as with the Convention. ECA and OAU could organize seminars for the judiciary and paralegal personnel to make them aware of the rights of women and families in the context of the Convention,

for government staff responsible for the implementation of national instruments and members of law reform commissions to sensitize them to the Convention, and on the Convention in general to exchange information and accelerate implementation. They should spell out the impact on women of the important documents they issue, establish focal points on women in all of their Divisions, assist in the wide dissemination of the Convention. ECA could develop a comprehensive data base on the role of women in various social and economic fields.